PARLIAMENTARY LAW—EXPRESS AUTHORITY NECESSARY FOR THE "CASTING VOTE."—By statute, the county judge was made the presiding officer of the county court, which consisted of the justices of the county. The county court, being authorized to issue bonds for a new court house upon a majority vote in favor of it, voted eighteen for and eighteen against. Whereupon the county judge, without any express authority in the statutes, cast a vote in favor and declared the resolution carried. Bill brought to enjoin the issuance of the bonds. *Held,* that a presiding officer of a deliberative body does not have the privilege of the "casting vote," unless expressly authorized, and that the injunction should be granted. *Reeder* v. *Trotter,* (Tenn., 1919) 215 S. W. 400.

The "casting vote" is usually defined as the vote of the presiding officer of a deliberative assembly or legislative body, in the event of a tie vote upon any question or motion. This vote may be the single vote of a person who never votes at any other time, or it may be the double vote of a person who first votes with the rest, and then upon an equality, creates a majority by giving a second vote. *Wooster* v. *Mullins,* 64 Conn. 340; *People* v. *Rector etc. of the Church of Atonement,* 48 Barb. (N. Y.) 603. The double vote was allowed in the New York case because the statute expressly gave the vote to each of the wardens and vestrymen, and also gave express authority to the presiding officer, who might be one of the wardens, to have the "casting vote," without taking away his vote as a member. But where the statute was not explicit on this question, the vote of the mayor *as a member of the council* was withheld when acting as the presiding officer with the privilege of the "casting vote." *Brown* v. *Foster,* 88 Me. 49. But in all the above cases and in many others, the authority to exercise the "casting vote" was express. *Launtz* v. *People,* 113 Ill. 137; *Carrol* v. *Wall,* 35 Kan. 36. And such seems to be the situation in all cases where this point has been raised. However the principal case is one where no express privilege of voting as a member, or in case of an equality, was given to the presiding officer. It was held in an early Alabama case, *State* v. *Adams,* 2 Stew. (Ala.) 231, that a sheriff has no power to exercise the "casting vote," where he was not expressly authorized, and that this power could not be implied. This latter case directly supports the doctrine of the principal case. Thus the doctrine of the principal case seems in accord with authority, since the reported cases, raising this question, are cases based on express authority, and since the Alabama case is directly in point. See also note 47 L. R. A. 561, and 29 CYC. 1690.

PRINCIPAL AND AGENT—LIABILITY OF UNDISCLOSED PRINCIPAL WHO HAS SETTLED WITH AGENT.—The mortgagor of a consignment of cotton seed shipped the cotton seed over plaintiff's road. The plaintiff, pursuant to custom in dealing with the shipper marked the bill of lading "freight prepaid." In reality it had not been paid. Three years later upon discovering that the shipper was only the agent, the plaintiff (mortgagor) sued to collect the freight charges from defendant, mortgagee. The defendant, in the meantime, thinking the freight had been paid, had settled with the agent. *Held,*

defendant not liable. *Southern Ry. Co.* v. *W. A. Simpkins Co. et al.* (N. C., 1919), 100 S. E. 418.

The court in deciding the case considered the mortgagee both as disclosed and undisclosed principal, reaching the same result by either method. Concerning the liability of an undisclosed principal there have been many adjudications. The rule was first laid down in 1829 by the case of *Thomson* v. *Davenport,* 9 B. and C. 78, 4 M. and R. 110. Dictum in that case asserted that the liability of an undisclosed principal to the third person was subject to the qualification that the accounts between the agent and principal had not been altered to the detriment of the principal. Twenty-six years later, Parke, B., in *Heald* v. *Kenworthy,* 10 Exch. 740, restricted this rule by holding that the undisclosed principal was relieved only when he had been induced to settle with the agent by the acts of the third party. *Armstrong* v. *Stokes,* 7 Q. B. 598 (1872) attempted a refined distinction between *Thomson* v. *Davenport, supra,* and *Heald* v. *Kenworthy, supra,* but a later English case rejected such distinction. *Irvin* v. *Watson,* 5 Q. B. D. 414, 42 L. T. Rep. N. S. 810. The rule as laid down in *Heald* v. *Kenworthy, supra,* is now the established rule in England. See also *Davison* v. *Donaldson,* 9 Q. B. D. 623, 47 L. T. Rep. N. S. 564. That rule has also been followed in this country by some courts. *Hyde* v. *Wolfe,* 4 La. 234, 23 Am. Dec. 484; *Brown* v. *Bankers Tel. Co.,* 30 Md. 39. It is approved in 31 Cyc. 1580, being there called the "better rule." However, the majority of courts in this country seem to adhere to the rule of *Thomson* v. *Davenport, supra.* See *Clealand* v. *Walker,* 11 Ala. 1058, 46 Am. Dec. 238; *Bush* v. *Devine,* 5 Harr. 375; *Emerson* v. *Patch,* 123 Mass. 541; *Fradley* v. *Hyland,* 37 Fed. 40, 2 L. R. A. 749; *Knapp* v. *Simon,* 96 N. Y. 284; *Price-Evans Foundry Co.* v. *Southern Bell Tel. Co.,* (Ga., 1917) 91 S. E. 283. The court also considered the defendant in the light of a disclosed principal. This seems to be the most satisfactory way of disposing of the case. The chattel mortgage having been recorded the plaintiff was held to have had knowledge of the real ownership of the articles shipped and consequently elected to give exclusive credit to the agent. The principal then could not be held. Such doctrine is supported by abundant authority. *Addison* v. *Gaudassequi,* 4 Taut. 374; *Homans* v. *Lambard,* 21 Me. 308; *Ford* v. *Williams,* 21 How. (U. S.) 287; *Jones* v. *Aetna Ins. Co.,* 14 Conn. 501; *Johnson* v. *Cleaver,* 15 N. H. 332; *Winchester* v. *Howard,* 97 Mass. 303.

Referendum—Approval or Rejection of Proposed Amendments to Federal Constitution.—The legislature of Arkansas having voted approval of the proposed Eighteenth Amendment to the United States Constitution, a petition signed by the necessary number of voters for a referendum to the people of the state was filed with the secretary of state. In action to compel the secretary to certify the referendum, *held* that the state provision for referendum did not apply to action of the legislature in approving proposed amendments. *Whittemore* v. *Terral,* (Ark., 1919) 215 S. W. 686.

This subject is discussed *ante,* p. 51. The conclusion of the court is based on the ground that the constitution of Arkansas, providing for a referendum covers only "acts," "measures," and "laws," these terms being used